



Connecticut
Petroleum Council

A Division of API

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Testimony of
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Connecticut Petroleum Council
Opposition to HB-5220

The Connecticut Petroleum Council---a trade association representing major oil companies, refiners and terminal operators doing business in Connecticut---strongly opposes HB-5220, because it singles out the gasoline industry---especially its largest members---for special anti-trust treatment, even though there has been no showing of monopolistic behavior or restraint of trade, which is what this bill seeks to prevent. It duplicates the existing authority of the Attorney-General, and is, therefore, unnecessary. We ask you to give this bill an unfavorable report.

The Attorney-General currently has the power to prevent restraint of trade and monopolies; he also has broad subpoena power, and can seek forfeiture of a franchise, civil penalties up to \$250,000 and treble damages (see CT statutes, Chapter 624, sec. 35-24). Without this bill, the Attorney-General already has the power to subpoena the oil industry....and in the past, he has. Those investigations at the major oil company, refiner and terminal operator level failed to identify any violations or wrongdoings, and were quietly dropped.

In addition to the Attorney-General, the Federal Trade Commission (FTC) and the U.S. Department of Justice (DOJ) have broad subpoena power and monitor oil industry market share. If passed, the bill would discourage some companies from expanding in Connecticut, and set bad precedent. It may also inhibit some companies from sending additional gasoline here during events like Hurricane Katrina/Rita/Wilma, if doing so brings them close to the combined, artificially-imposed 50% trigger point in the bill. The document request (outlined in lines 19-34 of the bill)---which would include wholesale and retail prices and volumes at all terminals and service stations, as well as refinery prices and volumes coming into Connecticut---would be voluminous, time-consuming and very expensive to comply with.

Finally, proponents have not shown that passage of this bill will in any way increase competition in the gasoline industry.

MARKET CONCENTRATION

While the 50% threshold found in lines 10-15 of the bill at first sounds high, the bill says that it applies to any two or more of the following segments of the motor fuel industry in this state: (1) production/refining; (2) distribution; (3) terminals...., or (4) retail sale..... Therefore, any company that refines 13% of the gasoline sold here (even though the refinery is located outside of Connecticut), and then wholesales that 13% here, terminals it (13%) in New Haven or Bridgeport, and retails it (13%) will accumulate to---and run afoul of---the artificially-imposed 50% market share restriction found in this bill. Intel/AMD (microprocessors) and Microsoft/Apple (software) are prime examples of industries with tough competition but with only two major competitors; Intel and Microsoft would never pass the 50% test imposed by this bill if it applied to them. The Connecticut gasoline industry has many more players----

with much less market concentration----than the microprocessor or software operating system industry, and therefore, shouldn't be subject to this highly restrictive proposal. As you know, there are approximately 30 motor fuel wholesalers doing business in Connecticut, a number of large terminals, and many, many retailers. Competition at the wholesale level where major oil companies compete is measured in tenths-of-a-cent-per-gallon, while at the pump it is measured in pennies. Almost no other industry competes to that degree.

SUBPOENAS

Subpoenas are a serious legal matter, and should---for purposes of the gasoline industry---be limited to instances where the Attorney-General needs documentation because of violations or perceived violations of the Unfair Trade Practices Act. They should not be used as an ongoing document request in the absence of any wrongdoing, or to seek information using poorly defined market share criteria. Both the FTC and the DOJ break out market share by individual industry segment; *they do not artificially combine them as this bill does.*

GASOLINE INDUSTRY INFORMATION AVAILABLE TO THE ATTORNEY-GENERAL

Considerable information about the local gasoline industry was available to the Connecticut Attorney-General---had he wanted it---but he chose not to participate in a gasoline report compiled by his peers in the Northeast states that provided much of the very same information sought by this bill. The Attorneys'-General in five Northeast states (MA, ME, NH, NY, VT) commissioned a detailed study in September, 2007 by ERS Group examining product distribution, industry participants and market structure in the oil industry. A professor from Yale with significant gasoline industry experience also participated. The 327-page report gave retail gasoline market share by brand, and did so on a county-by-county basis. It also provided barrels of storage by terminal operator, and ownership structure of service stations by state.

That report outlined all the reasons for the recent increases in gasoline prices, but did not point to any wrong-doing by major oil companies, refiners or terminal operators as the reason for price spike. In fact, the report stated that: *Overall, petroleum markets in the (five) states have functioned relatively smoothly in the recent past... ..Although the states have experienced nationwide price and output shocks in the recent past (e.g. after the 2005 hurricanes), they have not had localized gasoline price and output shocks as the other regions have (e.g. Midwest markets in 2001).*

Had the Connecticut Attorney-General wanted much of the information being sought by HB-5220, he could have participated in that project, although he would have then been bound by its conclusions, which pointed to market forces---not anti-trust violations or wrongdoings---as the reason for recent gasoline price spikes.

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